

§ 1211.1-4

Service Act in which ACTION awards a grant to a national grantee to operate a VISTA Volunteer program on a national or multi-regional basis.

(g) *Local component* means a local office or project affiliate of a national grantee which has VISTA Volunteers assigned to it under the National VISTA Grants Program.

(h) The *Act* means the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, (42 U.S.C. 4951 *et seq.*), as amended.

§ 1211.1-4 Policy.

It is ACTION's policy to provide volunteers the widest latitude to present their grievances and concerns to appropriate officials of ACTION and of sponsoring organizations. This regulation is designed to assure that the rights of individual volunteers are recognized and to provide formal ways for them to seek redress with confidence that they will obtain just treatment.

§ 1211.1-5 Matters not covered.

Matters not within the definition of a grievance as defined in §1211.1-3(b) are not eligible for processing under this procedure. The following are specific examples of excluded areas and are not intended as a complete listing of the matters excluded by this part:

(a) The establishment of a volunteer project, its continuance or discontinuance, the number of volunteers assigned to it, increases or decreases in the level of support provided to a project, suspension or termination of a project, or selection and retention of project staff.

(b) Matters for which a separate administrative procedure is provided.

(c) The content of any law, published rule, regulation, policy or procedure.

(d) Matters which are, by law, subject to final administrative review outside ACTION.

(e) Actions taken in compliance with the terms of a contract, grant, or other agreement.

(f) The internal management of the ACTION Agency unless such management is specifically shown to individually and directly affect the volunteer's work situation or the terms and conditions of service as defined in §1211.1-3(b).

45 CFR Ch. XII (10-1-03 Edition)

§ 1211.1-6 Freedom to initiate grievances.

The initiation of a grievance shall not be construed as reflecting on a volunteer's standing, performance or desirability as a volunteer. ACTION intends that each supervisor and sponsor, as well as ACTION and its employees, maintain a healthy atmosphere in which a volunteer can speak freely and have frank discussions of problems. A volunteer who initiates a grievance shall not as a result of such an action be subjected to restraint, interference, coercion, discrimination or reprisal.

§ 1211.1-7 Entitlement to representation.

A volunteer may be accompanied, represented, and advised by a representative of the volunteer's own choice at any stage of the proceeding. The volunteer shall designate his or her representative in writing. A person chosen by the volunteer must be willing to act as representative and have no conflict between his or her position and the subject matter of the grievance.

§ 1211.1-8 Time for preparation and presentation.

(a) Both a volunteer and a volunteer's representative, if another volunteer or an employee of ACTION, must be given a reasonable amount of administrative leave from their assignments to present a grievance or appeal.

(b) ACTION will not pay travel expense or per diem travel allowances for either a volunteer or his or her representative in connection with the preparation of a grievance or appeal, except in connection with a hearing and the examination of the grievant file as provided in §1211.1-12(c).

§ 1211.1-9 Access to agency records.

(a) A volunteer is entitled to review any material in his or her official volunteer folder and any relevant Agency documents to the extent permitted by the Freedom of Information Act and the Privacy Act, as amended, 5 U.S.C. 552, U.S.C. 552a. Examples of documents which may be withheld from volunteers include references obtained

under a pledge of confidentiality, official volunteer folders of other volunteers, and privileged intra-agency documents.

(b) A volunteer may review relevant documents in the possession of a sponsor to the extent such documents are disclosable under the Freedom of Information Act and Privacy Act.

§ 1211.1-10 Informal grievance procedure.

(a) *Initiation of grievance.* A volunteer may initiate a grievance within 15 calendar days after the event giving rise to the grievance occurs, or within 15 calendar days after becoming aware of the event. A grievance arising out of a continuing condition or practice that individually affects the volunteer may be brought at any time. A volunteer initiates a grievance by presenting it in writing to the chief executive officer of the sponsor, or the representative designated to receive grievances from volunteers. The designated representative may not be the immediate supervisor of volunteers assigned to the sponsor. The chief executive officer of the sponsor or the designated representative shall respond in writing to the grievance within five (5) working days after receipt. The chief executive officer or designee may not refuse to respond to a complaint on the basis that it is not a grievance as defined in § 1211.1-3(b), or that it is excluded from coverage under § 1211.1-5, but may, in the written response, refuse to grant the relief requested on either of these grounds.

If the grievance involves a matter over which the sponsor has no control, or if the chief executive officer is the immediate supervisor of the volunteer, the procedures described in this section may be omitted, and the volunteer may present the grievance in writing directly to the State Director or designee as described in paragraph (b) of this section within the time limits specified in this paragraph (a).

(b) *Consideration by ACTION State Director or designee.* If the matter is not resolved to the volunteer's satisfaction by the sponsor's chief executive officer, the volunteer may submit the grievance in writing to the ACTION State Director or designee within five (5)

working days after receipt of the decision of the sponsor's chief executive officer. The State Director or designee may not refuse to receive a complaint, even if he or she believes it does not constitute a grievance, and shall respond to it in writing within five (5) working days after receipt. The response may indicate that the matter is not grievable. If the State Director or designee fails to meet the time limit for response, the volunteer may initiate a formal grievance.

(c) *Discussion.* All parties to the informal grievance procedure must be prepared to participate in full discussion of the grievance, and to permit the participation of others who may have knowledge of the circumstances of the grievance in the discussion. State Program Officers and other ACTION employees may participate in discussions and provide guidance with respect to ACTION policies and procedures, at the request of any party, even prior to submission of a grievance to them.

(d) *Sponsor grievance procedure.* A sponsor may substitute its own grievance procedure for the procedure described in paragraph (a) of this section. Any such procedure must provide the volunteer with an opportunity to present a grievance at least as comprehensive as that contained in this section, must meet the time limits of this section, and must be provided in writing to all volunteers. In order to utilize its own grievance procedures, the sponsor must obtain approval of the procedure from the ACTION State Director and file a copy of this approved procedure with the State Office.

§ 1211.1-11 Initiation of formal grievance procedure.

(a) *Submission of grievance to Regional Director.* If a volunteer is dissatisfied with the response of the State Director or designee required by § 1211.1-10(b), he or she may present the grievance in writing to the Regional Director. To be eligible for the formal grievance procedure, the volunteer must have completed action under the informal procedure contained in § 1211.1-10 or have alleged that the State Director or designee exceeded the time specified for response.